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EXAMINER

ZECHER, MICHAEL R

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NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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DETAILED ACTION

1. The following is a final Office Action on the merits. The Amendments/Remarks received on February 29, 2008, have been entered. **Claims 16 & 30** have been amended. **Claims 1-30** are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-2, 5-20, & 23-30** are rejected under 35 U.S.C. 102(e) as being anticipated by Heyns et al. (U.S. 2004/0073467).

As per claim 1, Heyns et al. teaches an electronic network system adapted to facilitate the detection of cost levers that affect a cost structure of a target company and compilation of appropriate cost reduction strategies for the target company, said network system comprising:

a cost lever analysis tool adapted to receive financial data inputs regarding the target company and calculate normalized diagnostic information regarding the cost structure of said target company, said diagnostic information being usable to identify various problematic cost centers and cost levers for addressing said problematic cost centers of the target company (See paragraph 53, which discusses a Value

Management Financial Analysis Tool (VMFAT) that provides fast financial comparative analysis for a target company);

a cost reduction strategy tool, said strategy tool including a business capability recommendation linking module and an overview module, said linking module correlating various business capabilities with a plurality of possible cost levers and said overview module providing information relevant to each said business capability, said relevant information being useful to [the] understand, assess and implement a particular capability recommendation for the target company (See paragraph 68, which discusses a Value Strategy Impact Model Tool (VSIMT) that allows a user to see the impact on future cash flows of specific operating strategies);

wherein said cost levers identified by said cost lever analysis tool are correlated by said cost reduction strategy tool to one or more appropriate business capabilities recommended as providing at least one element of a cost reduction strategy adapted to target one or more of said identified cost levers (See figure 3, and paragraph 52, which illustrate and discuss how the VMFAT and VSIMT perform strategic planning to identify value-adding and manageable organizational targets).

As per claim 2, Heyns et al. teaches wherein said relevant information is organized in an overview, and each overview may contain information types selected from the group consisting of case studies, implementation plans, integration implications, sample benefit and impact forecasts, and combinations thereof (See paragraph 12 & 53, which discusses perpetual planning, forecasting, comparing the results to industry and/or sector average, etc.).

As per claim 5, Heyns et al. teaches wherein a plurality of case studies are correlated with each business capability (See paragraph 53, which discusses how financial comparative analysis for a target company can be displayed using key metrics, including a selected number of different companies, results over a number of years, industry and/or sector average, etc.).

As per claim 6, Heyns et al. teaches wherein at least one business capability overview for a particular business capability contains case studies derived from more than one industry (See paragraph 53, which discusses how financial comparative analysis for a target company can be displayed using key metrics including industry and/or sector average).

As per claim 7, Heyns et al. teaches wherein said cost reduction strategy tool can produce business capability implementation plan templates for the target company concerning a selected business capability recommendation upon a user selecting said recommendation (See paragraph 70, which discusses how a user selects a operating strategy).

As per claim 8, Heyns et al. teaches wherein said business capability implementation plan template can include implementation information useful for the target company in applying a recommended business capability (See paragraph 69, which discusses a list of operating strategies; and, furthermore, how business scenarios encompass most business decisions that focus on revenue improvement, cost reduction, and asset efficiency).

As per claim 9, Heyns et al. teaches wherein said implementation information is of types selected from the group consisting of economic impacts, strategy goal summaries, expected implementation schedules and plans, projected cost considerations, and projecting key benefits (See paragraph 69, which discusses a list of operating strategies, including consolidating acquisition, non-consolidated acquisition, business divestiture, expansion, productivity improvement, revenue enhancement, cost reduction, changes in accounts receivable outstanding, accounts payable outstanding, inventory, trading position, and other strategies).

As per claim 10, Heyns et al. teaches wherein said cost lever analysis tool comprises a module for calculating a total return to shareholders using a calculated return on invested capital, a calculated [the] weighted average cost of capital, a calculated organic growth, and a calculated merger and acquisition growth (See paragraph 60, which discuss metrics including, capital weighted average cost of capital, NOPLAT growth, capital expenditure ratio, etc.).

As per claim 11, Heyns et al. teaches wherein said cost lever analysis tool is adapted to produce reports summarizing metric and diagnostic ratios relevant to identifying cost drivers and cost levers in the target company (See figures 5-9, which illustrate screen shots of graphs, tabular printouts, bar charts, etc. based on a metric or metrics selected by the user).

As per claim 12, Heyns et al. teaches wherein said reports includes charts or diagrams comparing said metrics or said diagnostic ratios to baseline industry information (See figures 5-9, and paragraph 53, which illustrates and discusses financial

comparative analysis for a target company correlated with classes of industry; and furthermore, screen shots of graphs, tabular printouts, bar charts, etc. based on a metric or metrics selected by the user).

As per claim 13, Heyns et al. teaches wherein said baseline industry information comprises values of said metrics or diagnostic ratios pertaining to industry competitors of said target company (See paragraphs 53 & 58, which discusses financial comparative analysis for a target company correlated with classes of industry, and how to user can compare competitor companies side-by-side).

As per claim 14, Heyns et al. teaches wherein said reports includes shareholder return graphs, said shareholder return graphs comparing a growth compound annual growth rate to a spread for the target company and industry peers of said target company (See figures 5-9, and paragraph 19, which illustrates and discusses shareholder value analysis; and, furthermore, screen shots of graphs, tabular printouts, bar charts, etc. based on a metric or metrics selected by the user).

As per claim 15, Heyns et al. teaches wherein said tools are located on server electronically accessible by remote users (See paragraph 61, which discusses how VMFAT operates on a SQL server database, and how a user may access the VMFAT over a secured network at various locations throughout the world).

As per claim 16, Heyns et al. teaches a computer storage medium encoded with instructions embodying a computer program, the computer program adapted to perform operations to detect cost levers that affect a cost structure of a target company and to

facilitate the compilation of appropriate cost reduction strategies for the target company, said operations comprising:

receiving financial data regarding the target company (See paragraph 61, which discusses how the VMFAT receives financial data from FactSet Research Systems, Inc., on a daily basis);

performing financial calculations on said financial data to produce normalized diagnostic information regarding the cost structure of said target company (See paragraph 62, which discusses how financial statement information is standardized to allow for comparison across companies and historical analysis);

reporting said diagnostic information for review by a user and identification of one or more problematic cost centers of the target company and one or more cost levers for addressing said problematic cost centers of the target company (See paragraph 53, which discusses a Value Management Financial Analysis Tool (VMFAT) that provides fast financial comparative analysis for a target company);

correlating a plurality of business capabilities with a plurality of possible cost levers, said business capabilities comprising cost saving measures that can be incorporated into cost reduction plans for suitable target companies, and each said business capability being correlated with one or more of said possible cost levers, wherein a particular correlated business capability is recommended as producing cost reduction benefits through linked cost levers to which said particular correlated business capability is correlated (See figure 3, and paragraph 52, which illustrate and discuss

how the VMFAT and Value Strategy Impact Model Tool (VSIMT) perform strategic planning to identify value-adding and manageable organizational targets);

providing information relevant to each said business capability, said relevant information being useful to understand, assess and implement a particular capability recommendation for the target company (See paragraph 68, which discusses a Value Strategy Impact Model Tool (VSIMT) that allows a user to see the impact on future cash flows of specific operating strategies).

Claims 17-19 recite equivalent limitations to claims 7-9, respectively, and are therefore rejected using the same art and rationale as set forth above.

Claims 20 & 23-24 recite equivalent limitations to claims 2 & 5-6, respectively, and are therefore rejected using the same art and rationale as set forth above.

Claims 25-30 recite equivalent limitations to claims 10-15, respectively, and are therefore rejected using the same art and rationale as set forth above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 3-4 & 21-22** are rejected under 35 U.S.C. 103(a) as being anticipated by Heyns et al. (U.S. 2004/0073467), further in view of Official Notice.

As per claim 3, Heyns et al. does not expressly disclose wherein said overviews comprise hyperlinked overview documents.

The Examiner takes Official Notice that it is old and well known in the art to provide hyperlinks for documents. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Heyns et al. to include hyperlinked overview documents in order to efficiently scan and/or read numerous documents.

As per claim 4, Heyns et al. does not expressly disclose wherein said overview documents can be cross-linked to associated overviews for related or similar business capabilities.

The Examiner takes Official Notice that it is old and well known in the art to cross-link documents containing related subject matter. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Heyns et al. to include cross-linking overview documents for related business capabilities in order to provide a quick and efficient comparison of relevant strategic objectives.

Claims 21-22 recite equivalent limitations to claims 3-4, respectively, and are therefore rejected using the same art and rationale as set forth above.

Response to Arguments

6. Applicant's arguments filed February 29, 2008, have been fully considered but they are not persuasive.

In the remarks, the applicant argues in substance that:

(a) Heyns et al. fails to disclose, teach, or suggest "a cost lever analysis tool adapted to receive financial data inputs regarding the target company and calculate normalized diagnostic information."

(b) Heyns et al. fails to disclose, teach, or suggest "wherein said cost levers identified by said cost lever analysis tool are correlated by said cost reduction strategy tool to one or more appropriate business capabilities recommended as providing at least one element of a cost reduction strategy adapted to target one or more of said identified cost levers."

(c) Heyns et al. fails to disclose, teach, or suggest "performing financial calculations on said financial data to produce normalized diagnostic information regarding the cost structure of said target company."

(d) Heyns et al. fails to disclose, teach, or suggest "correlating a plurality of business capabilities with a plurality of possible cost levers."

(e) Heyns et al. in view of Official Notice does not establish a prima facie case of obviousness.

In response to (a) & (c):

The Examiner respectfully disagrees with applicant's assertion. Applicant argues that Heyns et al. fails to disclose, teach, or suggest a tool for calculating normalized diagnostic information. On pg. 23 of the specification, applicant defines the metrics and diagnostic ratios resulting from the output of the cost lever analysis tool as return on invested capital, gross profit margin, operating margin, and revenue growth. Heyns et al. discloses, teaches, and suggest using the VMFAT tool to calculate revenue growth

(See paragraphs 59-60). Therefore, Heyns et al. discloses, teaches, and suggests calculating revenue growth, which is included in applicant's definition of normalized diagnostic information.

In response to (b) & (d):

The Examiner respectfully disagrees with applicant's assertion. First, applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the reference.

Second, for clarification purpose, Examiner has broadly and reasonably interpreted the claim limitation to include recommending value-adding strategies that result in cost savings (See paragraph 51 & 52).

In response to (e):

The Examiner respectfully disagrees with applicant's assertion. First, in response to applicant's argument that the obviousness criteria have not been established for Heyns et al. in view of Official Notice, the test for obviousness is not whether there must be some expectation of success; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Second, MPEP § 2144.03(C) provides the requirements to traverse an Official Notice: "Specifically point out the supposed errors in the examiner's action, which

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would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." [emphasis added]

Applicant has failed to adequately traverse official notice because applicant has only made a general allegation that the notice was not proper, in no way addressing why any of the facts would not be common knowledge. Indeed, with no guidance as to why those simple facts officially noticed are not well known, it is impossible to provide a reference addressing Applicant's potential concern. Therefore, according to MPEP § 2144.03(C), the officially noticed facts asserted in the previous office action are deemed admitted prior art.

Regardless, in furtherance of prosecution, Examiner refers applicant to claim 32 of Wallenius (U.S. 7,139,813) which teaches, suggests, and discloses hyperlinked and cross-linked documents.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL R. ZECHER whose telephone number is (571)270-3032. The examiner can normally be reached on M-F 7:30-5:00 alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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